REMARKS

Claims 58, 61-63, 65-68, 70, 73, 76-77, 81-82, 84, 86-87, 90, 92, 95, 98-112, 114, 116-119, 121-123, 125, 126, 128-131, 133, 134, 136-139, 141-143 are currently pending in this application. No claims have been amended. Claims 58, 62, 63, 66-68, 70, 73, 76, 77, 84, 86, 92, 95, 98-106, 111, 112, 116-119, 121, 123, 125, 126, 128-131, 133, 134, 136-139, 141 and 142 have been have been withdrawn from consideration as being drawn to non-elected species. Upon notice of an allowable generic claim, Applicant reserves the right to rejoin the withdrawn subject matter. No new matter has been added.

Rejection under 35 USC §102(b)

Claims 61, 65, 81-82, 87, 90, 107-110, 114, 122 and 143 are rejected under 35 USC §102(b) as being anticipated by US Patent No. 4,814,182 to Graham ("Graham"). Applicants disagree.

In order to anticipate a claim, a reference must teach each and every element of the claim. (*See*, MPEP §2131). Claims 87, 107-110, 114, 122 and 143, from which the remaining claims depend, in a first step require a biologically active agent be dispersed or dissolved in one or more carrier starting substances to a first degree of saturation. (*See*, Specification at page 7, lines 4-7). The claims then require, in a second step, that the starting carrier starting substances be subjected to a chemical reaction to produce a liquid or solid non-crystalline carrier matrix, where the biologically active agent is dissolved or dispersed to a second degree of saturation, and where the second degree of saturation is more than the first degree of saturation. (*See*, Specification at page 7, lines 1-11).

The Examiner indicates that Graham discloses the formation of a polyethylene oxide hydrogel by reacting polyethylene oxide, hexane triol and bis isocyanatocyclohexyl, and antifungal agents that are dispersed in the polymerizing monomers or hydrogel. (*See*, Office Action at page 3). However, Graham does not discuss saturation of the active agent in the hydrogel generally, the degree of saturation of the active substance that is dissolved or dispersed in the hydrogel, or require a two step process of incorporating the active agent and

the hydrogel. Rather, Graham teaches preparing hydrogel in a cast. (*See*, Graham at column 7, lines 11-12 and 55-57). The cast hydrogels are then either packed with the active agent, *i.e.*, lithium chloride crystals (*See*, Graham at least at column 7, lines 57-60 and at column 8, lines 39-40), or the hydrogel casts are swollen in a solution containing an active ingredient, *i.e.*, p-aminobenzoic acid or benzocaine in chloroform (*See*, Graham at least at column 9, lines 28-30 and at lines 66-69). Overall, in each Example of Graham, the hydrogel is prepared and an active substance is incorporated therewith. (*See*, Graham at column 1, lines 61-64). None of the Examples describe a two step process where the active ingredient is added at two different stages and at two different degrees of saturation during the preparation of the carrier matrix, *i.e.* hydrogel, of the composition as required by the instant application. As such, Graham does not teach or suggest each element of the claims of the instant application.

Reconsideration and withdrawal of the rejection is requested. Applicants respectfully submit that the application is now in condition for allowance.

Respectfully submitted,

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